

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

In re Flagstar December 2021 Data
Security Incident Litigation

Case No. 4:22-cv-11385

Hon. Shalina D. Kumar

JOINT NOTICE

Pursuant to the Stipulated Order to Extend the Briefing Schedule for Flagstar’s Motion to Dismiss [Doc. 62] (the “Stipulated Order”), Plaintiffs John Scott Smith, Christopher P. Kennedy, Erin Tallman, Mark Wiedder, Michael McCarthy, Rafael Hernandez, William Worton, Hassan Nasrallah, Nathan Silva, Laurie Ewing Scanlon, Everett Turner, and Allie McLaughlin (“Plaintiffs”), by their undersigned attorneys, and Defendants New York Community Bancorp, Inc., f/k/a Flagstar Bancorp, Inc. and Flagstar Bank, N.A., f/k/a Flagstar Bank, FSB (together, “Flagstar”), by their undersigned attorneys, (collectively, the “Parties”), hereby notify the Court that the Parties’ targeted discovery is complete as of **February 5, 2024**, and state as follows:

1. On June 23, 2023, Plaintiffs, on behalf of themselves and all others similarly situated, filed a Consolidated Class Action Complaint asserting eighteen causes of action against Flagstar. Doc. 52.

2. On July 24, 2023, Flagstar filed a Motion to Dismiss under Rules 12(b)(1) and 12(b)(6) (the “Motion”). Doc. 58. To support its factual challenge to Article III standing under Fed. R. Civ. P. 12(b)(1), Flagstar attached the Declaration of Jennifer Charters [Doc. 58-2] and the Declaration of William Hardin [Doc. 58-3] to the Motion.

3. The Parties agreed to extend the briefing schedule on Flagstar’s Motion to permit targeted discovery into the factual allegations raised in Flagstar’s factual attack on Article III standing. Accordingly, the Court entered the Parties’ Stipulated Order [Doc. 62] on August 1, 2023. Pursuant to the Stipulated Order:

- a. “The deadline for Plaintiffs to file their consolidated Response to Flagstar’s Motion shall be thirty (30) days after the completion of targeted discovery.”
- b. “The Parties will meet and confer in good faith regarding any objections to the targeted discovery contemplated herein. If the Parties are unable to reach an agreement, the Parties will promptly bring the dispute to the Court’s attention.”

- c. “The Parties will cooperate in good faith to determine the date on which limited discovery is deemed “complete” for purposes of calculating the deadline for Plaintiffs’ Response. If the Parties are unable to reach an agreement, the Parties will promptly bring the dispute to the Court’s attention.”
- d. “The Parties will submit a joint notice notifying the Court of the date on which limited discovery is deemed “complete” within five (5) days of that date.”¹

4. In September 2023, the Parties requested a discovery conference with the Court to address a dispute over the scope of discovery. Docs. 63, 65. Since that time, the Parties have continued to engage in targeted discovery and, after conferring in good faith, no longer require the requested conference. The Parties further agree that targeted discovery is complete as of **February 5, 2024**. *See* Doc. 62 at ¶ 7(c).

5. Pursuant to the Stipulated Order, Plaintiffs’ deadline to file their consolidated Response to Flagstar’s Motion to Dismiss is **March 6, 2024**. *See* Doc. 62 at ¶ 7(a).

6. Pursuant to Local Rule 7.1(e)(2)(B), Flagstar’s deadline to file its Reply in Support of the Motion to Dismiss is **March 20, 2024**.

¹Doc. 62 at ¶ 7(a)-(d).

7. The Parties request a hearing as soon as practicable after **March 20, 2024** to address the Motion.

Dated: February 7, 2024

Respectfully submitted,

/s/ Marcella Lape

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